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August 25, 2017

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84

Dear Ms. Dortch:

On August 23, 2017, Maggie McCready, Roy Litland, and I from Verizon met with Adam Copeland, Daniel Kahn, Gail Krutov, and Michael Ray from the Wireline Competition Bureau to discuss the parts of the Commission's *Notice*¹ that address pole attachment reforms. Verizon's remarks were consistent with our filed comments² in this matter.

On the proposals to speed access to poles, we thanked the Commission for its past efforts and suggested several additional changes. We first noted that Verizon is one of the few providers with experience both as a pole owner and as a wireline and wireless attacher. We explained that the Commission should allow attachers, as well as pole owners, the option to use pole-owner-approved contractors to coordinate and do all work to add a new attachment – otherwise called one-touch make-ready (“OTMR”). Under our proposal, the new attacher would be required to correct any deficiencies that the pole owner or existing attachers identify regarding the contractor's make-ready work and the new attacher and approved contractor would indemnify for any harm caused by such work. Attachers (and pole owners, if applicable) who do not elect to use OTMR would be able to continue to use the existing pole attachment timeframes and processes.

We explained that particularly in our experience as an attacher, make-ready work is typically completed sequentially. For example, if make-ready is necessary to accommodate a new attachment at the top of the communications space, then existing attachers will move their facilities downward proceeding sequentially from the lowest attacher in the communications space to the highest attacher in the communications space. Make-ready work for pole

¹ See *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment, 32 FCC Rcd 3266 (2017) (“*Notice*”).

² See June 15, 2017 Verizon Comments; July 17, 2017 Verizon Reply Comments.

replacements also typically proceeds sequentially, except in a top-to-bottom order. While pole owners and attachers generally recognize that all make-ready work should be completed within the deadlines specified in the Commission's rules, the sequential nature of make-ready work means that one party's delay in completing its make-ready work often delays other parties' ability to begin their make-ready work. As a result, we have found that make-ready is often not completed until well beyond the deadlines specified in the Commission's rules.

We reiterated our view that one-touch make-ready can significantly speed the make-ready process. Instead of multiple parties performing make-ready work on the pole, a single pole-owner-approved contractor would do all of the work for a new attacher at one time. OTMR benefits attachers and pole owners by replacing multiple truck rolls with one and thereby speeding the attachment timeline and reducing aggregate make-ready costs. OTMR also benefits pole owners because in an OTMR structure, the attaching party has the responsibility for obtaining a survey and make-ready estimate and of notifying existing attachers that make-ready work will be performed rather than shifting that responsibility to the pole owner. Municipalities and residents also benefit because there will be reduced closures of streets and sidewalks for make-ready work.

We encouraged the Commission to authorize OTMR in both the communications space and for the attachment of wireless facilities above the communications space. We recognize that parties have argued that make-ready work above the communications space could raise additional safety concerns. But if a contractor is qualified to perform work in the communications space and in the electric space, then a party using OTMR should be allowed to use the contractor to perform work in those spaces.

We urged the Commission to refrain from limiting OTMR to "routine" make-ready. The benefits of OTMR will not be fully realized if the process becomes bogged down in disputes over whether make-ready work is "routine" or "complex." If the Commission nevertheless decides to draw distinctions between routine and complex make-ready work, the Commission should at most require that existing attachers be given a slightly longer notice period before complex OTMR work is performed, but shouldn't bar the use of OTMR altogether.

We also explained that the Commission should not tailor its make-ready or other pole attachment rules based on how they would affect one individual company or its workforce, but should instead look to adopt a broad policy approach – such as OTMR – that best promotes broadband deployment overall.

We reiterated that the Commission should reject proposals to shorten dramatically the existing pole attachment process to the extent that it remains as an alternative to OTMR. Existing attachers often struggle to meet the current pole attachment deadlines. There is no reason to believe that parties can meet even shorter deadlines. The Commission should also reject calls to impose so-called "right touch" monetary penalties on parties who fail to comply with the current pole attachment deadlines. Administering, tracking, and enforcing such penalties would be complicated and would likely require the Commission to resolve numerous

disputes. Neither shorter deadlines nor “right touch” penalties solve the fundamental problem of multiple truck rolls and multiple pole climbs associated with sequential make-ready.

On pole attachment rate issues, we explained that the Commission should adopt a rule that incumbent LECs are entitled to the new telecom rate for purposes of pole attachments. The Commission’s current framework, under which incumbent LECs must prove that they are similarly situated to other attachers, has resulted in protracted negotiations and repeated disputes as power companies refuse to negotiate reasonable rates. If the Commission adopts an incumbent LEC new telecom rate presumption instead of a rule, that presumption should only be overcome in rare circumstances based on substantial evidence. And, if the presumption is overcome, the maximum reasonable rate should be the old telecom rate.

Finally, we encouraged the Commission to exclude all capital costs from pole attachment rates. It is unreasonable to require attachers or joint users to help defray the costs of constructing a pole designed primarily to meet an electric utility’s own separate need for a taller pole or increased pole strength; attachers should pay only for the costs they cause. The Commission should also adopt its proposal to codify its precedent that pole attachment rates cannot include capital costs that utilities already recover via make-ready fees.

We urge the Commission to adopt these pole attachment reforms as quickly as possible.

Sincerely,

A handwritten signature in black ink, reading "Katharine R. Saunders". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Katharine R. Saunders

cc: Adam Copeland
Daniel Kahn
Gail Krutov
Michael Ray